

Docket No.: 0335
Serial No.: 10/660,316

REMARKS/ARGUMENTS

Pursuant to 35 USC 121, the Examiner says that restriction to one of the following inventions is required:

- I. Claims 1-8, drawn to a product carrying and storage device, classified in class 206.
- II. Claims 9-11, drawn to a method of forming and using a product carrying and storage device, classified in class 493, subclass 226.

Referring to MPEP 806.05(f), the Examiner states that these inventions are "distinct" because Inventions Group II and Group I are related as process of making and product made. Specifically, the Examiner states that in the instant case the process as claimed can be used to make other and materially different product.

On April 13, 2005, Applicant filed a Preliminary Amendment in this case, amending Claims 1-2, 4-5, 7-9, and 11. Original Claim 10 as filed was retained, and Claims 3 and 6 were cancelled.

In response to the Restriction Requirement, Applicants provisionally elect, with traverse, the Invention of Group I, i.e., the subject matter of Claims 1, 2, 4, 5, 7 and 8 drawn to the product carrying and storage device. Applicants also respectfully request that the Examiner reconsider and withdraw this restriction requirement for the following reasons.

The Examiner says Inventions Group II and Group I are related as process of making and product made. Specifically, the Examiner states that the process as claimed can be used to make other and materially different product. However, Applicants direct the Examiner's attention to the specification, where the Field of the Invention, the Summary of the Invention, page 2, lines 20-22, and page 3, lines 17-19 among others, state that one improvement of the invention is that products can be easily inserted into the bag container prior to placing the topper on the bag, and the top can be easily removed to insert or remove products in the bag. Thus, the inventions of Groups I and II are disclosed as being capable of use together, and are related.

Moreover, MPEP Section 803 states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

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Other than referring to different patent classifications for Inventions I and II, no other basis is provided for why searching both inventions would be difficult or burdensome. Accordingly, Applicants respectfully request that the restriction requirement be withdrawn and that Inventions I and II as defined by Claims 1-2, 4-5, 7-9, and 11, as amended, be examined together.

Conclusion

Applicants believe that a proper response has been provided to each matter raised by the Examiner in the pending restriction requirement. Applicants request reconsideration of the application in view of the election and arguments contained herein, and the allowance of all claims.

Applicants would appreciate the courtesy of a telephone call should the Examiner have any questions or comments with respect to this response.

Respectfully submitted,

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